Justice of the Peace
and
LOCAL
GOVERNMENT REVIEW
ESTABLISHED 1837

[Registered at the General Post Office as a Newspaper]
LONDON:
SATURDAY, DECEMBER 15, 1956
Vol. CXX. No. 50 Pages 782–797
Offices: LITTLE LONDON, CHICHESTER, SUSSEX
Chichester 3637 (Private Branch Exchange).
Showroom and Advertising: 11 & 12 Bell Yard, Temple Bar, W.C.2.
Holborn 6900.
Price 2*s.* 3*d.* (including Reports), 1*s.* 3*d.* (without Reports).

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REPORTS

NOTES OF THE WEEK

Remands in custody after conviction, for "fineable" offences

An important judgment of the Court of Appeal is reported in *The Times* of November 28, 1956, at p. 5.

The case is that of *Boaks* v. *Reece* in which Lt.-Commander Boaks was appealing against the dismissal of his action, before Mr. Justice Pilcher and a jury, against Mr. Bertram Reece, the Bow Street magistrate, for damages for alleged wrongful imprisonment.

The alleged wrongful imprisonment occurred when Mr. Reece, having Commander Boaks before him on a charge which did not carry imprisonment, remanded him in custody for one week in order to obtain a medical report. The action was based on a claim that a remand for a medical report must be ordered, if at all, under s. 26 of the Magistrates' Courts Act, 1952, and that as this was not an offence punishable on summary conviction with imprisonment there was no power so to remand. It was further suggested that the power given by s. 14 (3) of the 1952 Act did not justify such a remand.

The jury in the action found that in remanding as he did Mr. Reece was not acting vindictively, and the learned Judge held that his action in so remanding the defendant was an act within his jurisdiction by virtue of the power given by ss. 14 (3) and 105 of the 1952 Act.

The Court of Appeal unanimously upheld this decision. Lord Justice Singleton said "Section 16 of the Summary Jurisdiction Act, 1848, gave magistrates a general power to adjourn the hearing of a charge and in their discretion to commit an accused to prison meanwhile, and s. 25 (1) of the Criminal Justice Act, 1948, made it clear that that included power after conviction to adjourn a case for the purpose of making inquiries and seeing how the accused could best be dealt with. Section 26 (1) of that Act directed that where the offence was one which was punishable by imprisonment and the court thought that an inquiry ought to be made into the physical or mental condition of the accused the court *shall* remand the accused in custody or on bail. Those provisions were replaced by sections of the Magistrates' Courts Act, 1952. Section 14 (3) of the Act of 1952 did not in any way destroy the powers given by the previous Acts, and there still remained a general power to remand for the purpose of making inquiries."

It is pertinent to refer to s. 28 (2) of the Act of 1952 which requires a magistrates' court to ensure that a report from the Prison Commissioners *on the offender's physical and mental condition* is obtained before there is a decision to commit to sessions for borstal. The subsection speaks of the case being adjourned, to enable such a report to be made, under s. 14 (3) of the Act, thus making it clear that a remand for medical inquiries can be ordered when the case is adjourned under that subsection.

That this power to remand, under ss. 14 (3) and 105, existed we have never doubted, even in cases where there is no power, on conviction, to order imprisonment. This decision of the Court of Appeal sets aside any doubts which may have been entertained. Commander Boaks applied for, but was refused, leave to appeal to the House of Lords. It should be added that although it is now so clearly established that the power exists it is obviously one to be used with the greatest discretion and only when there is clearly good reason to order such a remand even though the offence does not carry imprisonment.

The decision of Pilcher, J., is reported at [1956] 2 All E.R. 750, and we referred to the case in a note of the week at 120 J.P.N. 404.

Bail on Appeal

Quite properly it is generally accepted that when a magistrates' court sends a person to prison, particularly in respect of a charge to which he has pleaded not guilty, it is usually the right course when he appeals against his conviction and sentence to release him on bail pending the hearing of his appeal. The power to do this is given now by s. 89 (1) of the Magistrates' Courts Act, 1952, which enacts that the court *may* release the appellant on bail. There is also the provision in s. 37 (1) of the Criminal Justice Act, 1948, which gives power to the High Court similarly to release on bail an appellant to quarter sessions.

This power of the High Court is particularly valuable because there are cases in which a magistrates' court, after full consideration of the circumstances, feels that bail should not be allowed. They can take this decision, if they feel that they should, with the knowledge that their decision in the matter is not final but is subject to review by a Judge of the High Court if the appellant chooses to exercise his right under s. 37 (1) *supra*. We note a case reported in the *Liverpool Daily Post* of November 10 in which the learned stipendiary magistrate convicted a driver of driving whilst under the influence of drink and sentenced him to four months' imprisonment and disqualified him for five years. It was reported, after his conviction, that he had been convicted of a similar offence in 1951 and had, on that occasion, been sent to prison for three months and disqualified for two years. When he gave notice of appeal against his recent conviction the learned magistrate refused his application for bail pending his appeal on the ground that it was the second time he had been sentenced to imprisonment for such an offence.

Preventing a Crime

The police would rather prevent crime than have to detect it, for in the prevention of crime they serve the public even more than in bringing an offender to justice. In a case at the Swansea Assizes it was related how the police were just in time to stop a man from committing bigamy.

The story was that as a man was about to enter into a marriage in a register office, a police officer intervened and arrested him. He was charged with an offence of making false statements for the purpose of procuring a marriage licence. It was stated that his wife discovered a card among her husband's papers which gave the date of the projected ceremony, and the police were informed.

The offence against s. 3 of the Perjury Act, 1911, is one in which the law recognizes clearly the varying gravity of such offences. The offence carries a maximum punishment of seven years' imprisonment, as in the case of actual bigamy, but it is also punishable on summary conviction, with a maximum penalty of £50. In the Swansea case the learned Judge passed a nominal sentence, which, taking into account the time the prisoner had been already in custody, had the same effect as if he had been sentenced to six months.

A drunken Cyclist

Young cyclists suffer far too often as the victims of road accidents for them to add intoxication to the hazards of riding a cycle on our roads today. But this is what a boy of 15 did who was fined 10*s*. with £3 3*s*. costs, at Highgate recently. The report is in the *Daily Express* of November 21. It is the first report we have seen of a case brought against a cyclist under s. 15 of the Road Traffic Act, 1930, by virtue of s. 11 (1) (*c*) of the Road Traffic Act, 1956. A policeman said that he saw the boy fall off his bicycle. The boy said that he bought a bottle of rum at an off-licence after he heard his workmates talking about Christmas drinks.

A charge brought against a cyclist by virtue of s. 11, *supra*, must be tried summarily, and the maximum penalties are on a first conviction a fine of £30 and on a second or subsequent conviction a similar fine or imprisonment for three months. The youth in this case was fortunate in escaping from such a foolish and dangerous escapade with a moderate fine and costs as the only penalty. He might easily have fallen off in front of a moving car and have been killed or seriously injured. It might not have been easy in such circumstances for his drunken condition to be established and some unfortunate motorist would have been put to considerable trouble and would have had, in any event, the anxiety and distress of being involved in such an accident. It is to be hoped that this boy's parents will take care to see that he appreciates the folly of his conduct, and that what has happened will be a real warning to him of the dangers of taking too much to drink. That is a lesson which he cannot learn too soon, but it would be better at his age to learn it some way other than by practice and experience.

Children—two-way care

The Birmingham Post of November 21 reports on special steps taken by the chief constable of Dudley to try to reduce the number of accidents caused to small children by tradesmen's vehicles when moving off after making a delivery. He was encouraged to do this by the successful results of an appeal he made about two years ago to 600 drivers of trademen's vehicles to exercise even greater care when driving away after a delivery.

This time, however, parents as well as drivers are being appealed to. It is part of the Mind that Child campaign. It is recognized that small children are very liable to get into a dangerous position close to a stationary vehicle so that, unless they are specially looked for, they may well not be noticed by the driver as he gets into his vehicle to drive off. The appeal is, therefore, to drivers "Please do get into the *habit* of looking underneath and around your vehicle before moving off after making a delivery." But the responsibility of parents is also taken into account, and emphasized by an appeal to mothers "If your child is playing outside when the van man calls to make a delivery, or if you go down to the front gate to meet him, please see that the child is safely back on the pavement before the van driver moves off."

This seems to us to be a practical effort to avoid injury or death to young children, and no doubt the authorities in Dudley, and those elsewhere, will watch with interest to see whether there is any noticeable reduction in the number of such accidents.

Work as Reparation

When a juvenile offender is ordered to pay a fine or compensation the court can never be sure whether the offender himself will have to find the money out of earnings or pocket-money or whether the parent will pay and thus prevent the offender from being punished. In most cases in which the court has not ordered the parent to pay it is better for his child to pay, and in the case of compensation he can feel that he is doing something to make good the injury he has inflicted, possibly thoughtlessly, on someone else.

In the Brighton *Evening Argus*, there was recently a report of a prosecution against three boys before the Haywards Heath juvenile court for wilful damage to windows of an unoccupied cottage to the extent of £4. On the face of it, this looked like a foolish prank in which there were no aggravating circumstances, but still not an offence to be ignored. The agent for the property was stated to have made a suggestion that the boys should make good the damage by working at the cottage on Saturdays. This sensible suggestion was agreed to, and two boys worked on several Saturdays. The other worked on one Saturday, but then left off because he did not want to lose a regular job. Although the parents of two of the boys had offered to make compensation, the agent thought it would be better that the boys themselves should make reparation. In all the circumstances the court made orders of conditional discharge for a year.

As apparently this method of dealing with the matter was arranged with the consent of the boys and their parents it has probably left behind no ill-feeling, and the boys can have the satisfaction of knowing they have done what they could to put things right. There are

some offences for which it is impossible thus to make amends, but when it is possible the offender ought to understand that it is his plain duty.

Another objection to street garaging

We have commented before on the encouragement which is given to car owners to use the public highway as a garage by allowing them to leave their vehicles without lights or with only parking lights. We have also drawn attention to the dangers of this practice. We read now in the *Newcastle Journal* of November 8 that another reason was urged before the Newcastle city council against all night "parking." "The Cleansing Committee are very much concerned indeed about this. I want to point out the difficulty we will have in keeping these streets clean. It means we will not be able to use our mechanical brushes in any of these streets," the chairman of the Cleansing Committee is reported to have said. He added that during the winter the cleansing department would be unable to plough snow from those streets where cars were parked. "Do we have to plough the snow on top of the cars?" he asked.

This seems to us to be a really practical objection which calls for an answer. It must be a difficulty which will face many authorities in addition to those in Newcastle, but we do not know what remedy is available to them. Motorists pay for the right to use their vehicles on the roads, but it cannot too often be emphasized that the proper use of the highway is for vehicles to pass and repass. By paying the appropriate revenue duty for his vehicle a motorist does not acquire, and should not be allowed to exercise, any right to appropriate permanently to his own use any part of the highway. We submit that to do this is an unreasonable use of the highway and that those who do it are causing obstruction without it needing to be proved that anyone in particular was obstructed (*Gill* v. *Carson* (1917) 81 J.P. 250).

The speed limit for goods "pick-up" vehicles

From time to time we read in the press reports of prosecutions arising from the driving of what are called "pick-up" vehicles at speeds exceeding 30 miles per hour. The explanation offered often is that the driver thought that as he was not carrying goods his vehicle was not restricted, outside a built-up area, to 30 miles per hour. The most recent case which has come to our knowledge is reported in the *East Anglian Daily Times* of November 3 when a defendant who had driven at 55 miles per hour in such a vehicle is reported to have said "Nobody can tell you whether you are allowed to do over 30 miles per hour with these vehicles or not." He found a sympathetic bench who granted him an absolute discharge and stated that they thought there was ground for confusion and that the defendant genuinely thought he was within the law.

We should have thought that there had now been ample time for drivers and others concerned to become aware of the law on this point. The Motor Vehicles (Variation of Speed Limit) Regulations, 1955, came into operation on December 14, 1955. As we have noted before they added to the passenger vehicle class in sch. I to the Road Traffic Act, 1930 (as amended by the 1934 Act) vehicles described as "*dual-purpose vehicles*." These vehicles are strictly defined in the regulations, and by their inclusion in the passenger vehicle class for the purposes of sch. I they were made the only type of "goods" vehicle (they not being constructed solely for the carriage of passengers and their effects) to which the goods vehicle speed limits in sch. I do not apply. Whether they are being used to carry goods or not they are not subject to a speed limit outside a built-up area. All other goods vehicles are subject *at all times* to the limits prescribed by sch. I for goods vehicles, *and it does not matter whether they are carrying goods or not.*

The regulations effected a change in the law and it was understandable that it should take those concerned a little time to appreciate that the change had occurred and exactly what its effect was. Perhaps manufacturers and car dealers could help by making it quite clear to purchasers whether the vehicle being bought is or is not a dual-purpose vehicle within the definition in the regulations. There must surely be a limit to the period during which courts can continue to accept the explanation (or excuse) that a defendant is not aware of a change in the law which occurred many months previously and which has led to the appearance in the press of a considerable number of reports of cases in which the change has been commented upon.

The London Police Court Mission

As is stated in the annual report of the London Police Court Mission, it might have been thought that in a welfare state there would no longer be the need for the social work done by the Church and the voluntary associations. Nothing of that kind has happened, and so far as the Mission is concerned there has been no falling-off in the demand made on its resources. Indeed, it is not infrequently asked to undertake new work and to open new establishments. Examples are given of suggestions about new homes or hostels for which it is considered there is a need. For these the Mission must rely on generous gifts. Grants from public funds for such purposes are not likely to be forthcoming under present conditions. The separate reports, included in the general report, from the various schools, homes and hostels, for which the Mission is responsible show what is already being done and may prove of sufficient encouragement to new donors and subscribers to help in this extension of the work. The need for funds is obvious, since the year under review closed with a deficit of £1,848.

In addition to the maintenance of institutions the work of the Mission includes help not only to offenders brought before the courts but also to persons who suffer as the result of offences. Its assistance department gives aid quickly in emergencies and for urgent cases dealt with in the courts and referred by probation officers. This help is made available in cash, clothing, food or accommodation for innocent families of law breakers.

Reading the several reports we are again confirmed in our conviction that the institutions under the Mission continue to supply an urgent need and that they are influencing for good a large number of young people who, but for their help, would come to grief.

Selden at Southend

The Pedestrians Association are (say the newspapers) examining the case of Michael Fox of Southend, an actor who achieved publicity which some of his professional associates must envy, as the first person convicted and fined under s. 14 of the Road Traffic Act, 1956. Incidentally, the case is of interest from the point of view discussed at p. 747, *ante*, since Fox was said to have told the constable who took his name that he did not know of s. 14. This is not impossible, despite its having been talked about in every newspaper for months, for did not Robert Blackstone, Q.C., in *The Call from the Past*, shudder to remember (as he bought *The Times* during his escapade at Manchester) that he had never looked at a daily paper in his young days as a strolling player? Be this as it may, the constable's arm was fully extended to restrain pedestrians from running under moving vehicles, when Fox "forced her arm down" and crossed the road with a

hurrying posse, causing motorists to pull up sharply. There are other points of interest beside *ignorantia juris*. The constable (says the newspaper account) "went after" Fox. What happened to the traffic, on foot and on wheels? Fox may have been genuinely surprised at being challenged, and an easy prey, but it seems more likely that future offenders will know what they are doing and may hurry on, into the railway station or as the case may be, and that once a bell-wether (to change from foxes to sheep) has shown the way a flock of pedestrians will follow. Is the constable on traffic control to leave his or her duty and chase the primary offender to the railway platform, or wherever else is his destination? Section 14 is an overdue enactment, which should contribute to public safety, but we are not sure how it can be made to work unless there are at least two constables at the point of action. Subsection (2) requires a person who has committed an offence to give his name and address if so required by a constable, and we do not stress the possibility that the deliberate offender may have enough presence of mind to give his name as William Palmer of Rugeley, or Charles Peace; this is a mischance which may befall any police officer taking the name and address of a person whom he does not know.

There is another point connected with s. 14 which was not overlooked when the clause was before Parliament, but was left to be considered later. This is the danger to pedestrians, and the inconvenience (to put it at the lowest) to drivers and passengers in vehicles, when the foot passenger makes his way through moving traffic temporarily halted, at places where there is no proper crossing. In busy streets there are often successive parties at distances of a vehicle's length, threading their way from side to side, saving themselves, at risk of life and limb, the short walk to a zebra crossing or one controlled by lights or by a constable. A variant is going over a crossing with lights, after the green light for vehicles moving towards the crossing has appeared. Both practices are more than an inconvenience to drivers—the sudden braking of a vehicle may cause following vehicles to collide and, still worse, passengers in buses, who are on their feet because the bus is crowded or because they are moving along to the alighting platform, can be thrown down and injured. For the time being, further legislation is unlikely; s. 14 in its present form met strong opposition. But sooner or later Parliament may have to go further in the same direction, of saving the heedless from themselves, and from producing risk for other people.

Petrol Rationing

The Local Government Manpower Committee published its second report in December, 1951. It made recommendations about the numbers of committees and their functions, preceding its suggestions by the truism that the use of the committee system is engrained in English life (and, the committee might have added, equally in the life of the other races who inhabit these islands). The committee considered the reasons for setting up statutory committees and thought it better that in general the decision as to the appointment of committees and the distribution and grouping of services among them should be left to local authorities. Within this general framework it was considered that the objects to be sought by local authorities should be (*a*) to limit committees to the number required for the efficient dispatch of the council's business and (*b*) to secure that each committee should have an adequate volume of work to justify their existence.

We question whether in a great number of authorities this recommendation has been seriously investigated. It is fashionable nowadays for O. & M. experts to investigate the working of council departments and invariably reports of their activities record some resulting economies, sometimes immediate and sometimes potential. Little appears in such reports, however, about economies possible from improving the methods by which council members carry on their activities, yet here a largely virgin field remains untilled: if petrol rationing forces the plough into this soil it will not have been an unmixed evil. For there is no doubt that in some authorities committees are too large: if the council is to be the body responsible for policy, what is the justification for having a number of so-called committees whose membership comprises all members of the council? There is no doubt also that some committees meet too frequently without that necessary "volume of work to justify their existence"—as members privately would readily admit. There is no doubt again that even when a committee or sub-committee, particularly a sub-committee because their name is legion, appears to have a full agenda, the appearance is an illusion because a large number of the items are purely administrative and the committee should not be troubled with them. Chairmen and vice-chairmen, or "small" sub-committees, are meeting frequently to decide matters of no policy importance which need only be referred to members if it were true that the heads of their departments are lowest grade clerks incapable of exercising any judgment even at the smallest point.

A study of published accounts where are recorded the costs of these activities is revealing: When one authority spends less than a quarter of what is paid in another of comparable size and area for members' expenses and allowances there is obviously scope for considerable economy and ground for an exhaustive review of existing practices.

DISQUALIFICATIONS AND ENDORSEMENTS UNDER THE ROAD TRAFFIC ACTS

Although the Road Traffic Act, 1956, has made certain changes which affect the power of courts to order disqualification or endorsement under the Road Traffic Acts the basic power to make such orders is still to be found in the Road Traffic Act, 1930, s. 6 (1), which *previously* read as follows:—"Any court before which a person is convicted of any criminal offence in connexion with the driving of a motor vehicle (not being an offence against Part IV of this Act) may in any case except where otherwise expressly provided by this Part of this Act, and shall where so required by this Part of this Act order him to be disqualified for holding or obtaining a licence for such period as the court thinks fit; and may in any case and shall where a person is by virtue of a conviction disqualified for holding or obtaining a licence, or where an order so disqualifying any person is made or where so required by this Part of this Act, order that particulars of the conviction and of any disqualification to which the convicted person has become subject shall be endorsed on any licence held by the offender."

There followed a proviso authorizing a court to limit a disqualification to the driving of the type of vehicle being driven

at the time the offence occurred, but by s. 29 (3) and sch. 9 to the 1956 Act this proviso has been repealed as from November 1, 1956. Incidental to this is the repeal of the second paragraph of s. 8 (6) of the 1930 Act.

Section 6 (1) is further amended by s. 26 (2) of the 1956 Act which enacts that for the reference in s. 6 (1) to criminal offences in connexion with the driving of a motor vehicle other than offences under Part IV of that Act there shall be substituted a reference to the offences specified in sch. 4 to the 1956 Act. A court is thus relieved of the duty of deciding whether a particular offence is or is not a criminal offence in connexion with the driving of a motor vehicle. The only offences for which there is power to order disqualification or endorsement are those set out in sch. 4 to the 1956 Act. But the other part of s. 6 (1) of the 1930 Act which we have quoted remains in force so that the discretion to make such orders is not absolute but is regulated as before by any provisions remaining in the 1930 and 1934 Acts which require or prohibit disqualification or endorsement in certain cases.

But the 1956 Act has made certain alterations in those requirements and prohibitions to which we have last referred, as follows:—

Dangerous Driving. Section 26 (1) (*b*) and sch. 8, para. 12 (2) of the 1956 Act amend s. 11 (3) of the 1930 Act, which requires a court to disqualify, save in certain circumstances, on a second or subsequent conviction under s. 11. The position now is that on such a conviction the court must order disqualification unless the court, *by reason of three years or more having elapsed* since the date of the last such conviction or for any other special reasons thinks fit to order otherwise, and the disqualification so imposed *shall be for not less than nine months unless more than three years have elapsed since the last conviction.*

The discretionary power to order such period of disqualification as the court thinks fit, on a first conviction under s. 11, is not affected by the above provisions, and in the case of a second or subsequent conviction there is likewise no upper limit to the period which may be ordered.

Careless Driving. By s. 26 (1) (*c*) and sch. 8, para. 12 (3), s. 12 (2) of the 1930 Act is amended so that the limitation on the period of disqualification imposed on a second conviction is removed. The position now is that on a first conviction under s. 12 the disqualification may not be for more than one month. In the case of any subsequent conviction the court has a complete discretion as to the period of disqualification it may order.

" *Drunk in charge*." This offence, as distinct from a charge of *driving* whilst under the influence of drink must now be preferred under s. 9 of the 1956 Act. By s. 9 (2) *a second or subsequent conviction under the section* is to entail disqualification unless the court finds special reasons, but on a first conviction the court has a complete discretion and need not order disqualification unless it thinks fit to do so. A previous conviction, as a motor vehicle driver, under s. 15 of the 1930 Act is to count as a previous conviction for the above purposes.

No insurance. By s. 29 (2) and sch. 9 of the 1956 Act conviction of an offence under s. 35 of the 1930 Act is no longer to involve *compulsory* disqualification.

Aiders and Abettors. By s. 26 (3) of the 1956 Act any provision which requires that a person convicted shall be disqualified, in the absence of special reasons, is not to apply if the conviction is of a person who was not a principal offender but was one who aided, abetted, counselled or procured, or incited to, the commission of the offence.

But the subsection makes it clear that in the case of aiders and abettors, etc., the court has in general a discretionary power to order disqualification because it states that the fact that there is to be no compulsory disqualification is " without prejudice to the powers conferred by the said subs. (1) " *i.e.* s. 6 (1) of the 1930 Act.

There is, however, an amendment (*see* sch. 8, para. 13) to s. 11 (4) of the 1930 Act which now reads " where a person is convicted of aiding, abetting, counselling or procuring, or inciting the commission of an offence under this section *then unless it is proved that he was present in the vehicle at the time of the commission of the offence the provisions of this Part of this Act as to disqualification for holding or obtaining licences shall not apply to his conviction of that offence*."

Disqualification until a driving test is passed. Section 26 (4) of the 1956 Act adds persons convicted of offences under s. 15 of the 1930 Act (*driving* whilst under the influence of drink or drugs) to those who may be disqualified until they have, after the date of conviction, passed a driving test. The persons who were already within s. 6 (3) of the 1934 Act in this way are those convicted of offences against s. 11 or s. 12 of the 1930 Act.

Duration of driving disqualifications. By s. 7 (3) of the Act of 1930 a person who has been disqualified was entitled at any time after six months from the date when the disqualification was imposed to apply to have the disqualification removed. Section 27 of the 1956 Act limits the right so to apply as follows:— The application for removal may not be made before;

(*a*) six months if the disqualification is for less than one year; or

(*b*) one half the period of disqualification if it is for less than six years but not less than one year; or

(*c*) in any other case, three years.

Moreover by s. 26 (2), in determining the period for which a person is disqualified or the period after which he may apply for removal of disqualification *any time after the conviction during which the disqualification was suspended or he was not disqualified shall be disregarded.*

Appeal against finding of no special reasons. By s. 28 of the 1956 Act, where a person is convicted of an offence which involves disqualification unless the court finds special reasons and the court does not so find, the person disqualified may appeal against the disqualification, and the convicting court, if it thinks fit, may suspend the disqualification pending the appeal. This involves an amendment of s. 6 (2) of the 1930 Act, effected by sch. 8, para. 11 as follows:—" for the words 'the court may ' to the end of the subsection there shall be substituted the words ' a court by or before whom a person is convicted of an offence whereby he is so disqualified (whether by virtue of the conviction or by an order of the court) may, if it thinks fit pending the appeal against the conviction or order suspend the disqualification '."

It should be remembered, in construing references in the 1930 Act to " Part I of this Act," that by s. 42 of the 1934 Act the 1930 and 1934 Acts are to be construed as one, and that Part I of the 1934 Act is to be construed as one with Part I of the 1930 Act.

This article has been written in response to requests from readers for help in appreciating the effects of the 1956 Act on the powers of courts to order disqualification and endorsement. We think our readers may find, therefore, that the following table of the offences listed in sch. 4 to the 1956 Act is of use to them. In reading this table it will be borne in mind that where

disqualification is ordered there must always be an endorsement (s. 6 (1), 1930 Act) and therefore we do not so state in each individual case in the list. The Road Traffic Acts are shown as " 1930." " 1934 " or " 1956 " as the case may be.

Act and Section creating offence	*Offence*	*Disqualification*	*Endorsement*	*Maximum Penalty*
1930, s. 4 (1)	Driving without licence. Employing unlicensed driver	Optional	Optional	1st: £20 *Subsequent:* £50 or 3 months 1930, s. 113 (2)
1934, s. 31 (1)	Driving or employing anyone to drive a heavy goods vehicle without the appropriate licence	Optional	Optional	ditto
1930, s. 5 (3)	Provisional licence holder not complying with conditions	Optional	Optional	ditto
1930, s. 7 (4)	Applying for, or obtaining, a licence or driving while disqualified	Optional	Optional	6 months, or if the court thinks *for special reasons* a fine is adequate £50; or both
1930, s. 11	Reckless or dangerous driving of a motor vehicle	1st: Optional *Subsequent:* Compulsory except for special circumstances (see this article under "Dangerous driving.")	Compulsory	1st: £100 and/or 4 months *Subsequent:* £100 and/or 6 months 1956, s. 26 (1) (*a*). (also triable on indictment)
1930, s. 12	Driving a motor vehicle without due care or without reasonable consideration	Optional, but not exceeding 1 month for 1st conviction (1930, s. 12 (2) 1956, s. 26 (1) (*c*)	Compulsory except for special reasons 1934, s. 5 (1)	1st: £40 *Subsequent:* £80 and/or 3 months 1956, 8th Schedule, para. 12 (3)
1956, s. 9	" Drunk in charge " of a motor vehicle	1st Optional *Subsequent:* Compulsory 12 months except for special reasons. *(Previous under s. 15, 1930 Act counts if in respect of motor vehicle)	Optional if there is no disqualification	1st: £50 or 4 months *Subsequent:* * £100 and/or 4 months (also triable on indictment)
1930, s. 15	Driving a motor vehicle while under influence of drink or drugs	Compulsory 12 months except for special reasons	Optional if there is no disqualification	1st: £100 and/or 4 months *Subsequent:* £100 and/or 6 months 1930, s. 15 1956, s. 26 (1) (*d*) (also triable on indictment)
1930, s. 9	Driving while under age appropriate to vehicle being driven. Causing or permitting such driving	Optional	Optional	1st: £20 *Subsequent:* £50 or 3 months 1930, s. 113 (2)
1930, s. 9 1934, s. 1 (also any local Act or Regulation governing speed in a particular place.)	Any offence against any statutory restriction or speed	Optional on 3rd or subsequent conviction. *Not* for 1st or 2nd. 1930, s. 10 (2)	Compulsory except for special reasons. (1934, s. 5 (1))	1st: £20 *Subsequent:* £50. 1930, s. 10 (1A) (*see* 1934, s. 2 (2)) (Special penalties for employers aiding and abetting, etc., *see* s. 10 (5) of 1930)
1930, s. 13	Road racing and speed trials on a public highway	12 months Compulsory except for special reasons	Optional if no disqualification ordered	3 months and/or £50
Common Law	Manslaughter by driving	Optional	Optional	Triable only at Assizes
Offences Against Persons Act, 1861, s. 35	Driver causing bodily harm by furious driving, etc.	Optional	Optional	Triable only on indictment
1956, s. 8	Causing death by reckless or dangerous driving of motor vehicle	Optional	Optional	Triable only at Assizes
1930, s. 16	Unlawful pillion riding on motor bicycle	Optional	Optional	1st: £5. *Subsequent:* £10 (against the driver)
1930, s. 28	Taking and driving away motor vehicle without consent	Optional	Optional	3 months or £50 (also triable on indictment)
1956, s. 2 (1)	Using motor vehicle 10 years old or more on road with no test certificate. Also causing or permitting use	Optional	Optional	1st: £20 *Subsequent:* £50 or 3 months
1930, s. 49 (*see* also 1956, s. 35 (7) when in force.)	Driving of motor vehicle failing to conform to traffic direction or sign	Optional	Optional	1st: £20 *Subsequent:* £50 or 3 months 1930, s. 113 (2) When 1956, s. 35 (8) comes into force there will be no power to imprison on a second or subsequent conviction
1930, s. 46 (*see* also 1956, s. 33 when brought into force)	Driver failing to comply with order regulating direction in which traffic is to proceed or part of carriageway to be used	Optional	Optional	1st: £5 *Subsequent:* £10 (1930, s. 46 (6)) When 1956, s. 33 is brought into force maximum penalties increased to 1st: £20 *Subsequent:* £50
Construction and Use Regulations, 1955. (*see* 1956 sch. 4, para. 10 (*c*))	Using, or causing or permitting use of, vehicle in dangerous condition, or with number of passengers or load likely to cause danger, or defective brakes steering or tyres, etc.	Optional	Optional	£20 (Regulation 104)
1930, s. 50	Leave vehicle in dangerous position on road	Optional	Optional	1st: £20 *Subsequent:* £50 or 3 months 1930, s. 113 (2)
1930, s. 18 and Pedestrian Crossing Regulations 1954	Pedestrian crossing offence by driver	Optional	Optional	1st: £10 *Subsequent:* £25 1934, s. 18 (8) as amended by 1956, s. 46 (4)
Street Playgrounds Act, 1938, s. 1 (5)	Using, causing or permitting use of, vehicle in contravention of Order under the section	Optional	Optional	1st: £5 *Subsequent:* £10
School Crossing Patrols Act, 1953, s. 2	Failing to stop at or proceeding too soon at a school crossing	Optional	Optional	£20
1930, s. 35	Insurance offences	Optional	Optional	£50 and/or 3 months
Road Transport Lighting Acts, 1927 and 1953, and Regulations	Offences relating to lights on vehicles	Optional	Optional	1st: £5 *Subsequent:* £20 (1927 Act, s. 10)

EMPHASIS ON CONFERENCE REGULATIONS

By PHILIP J. CONRAD, F.C.I.S., D.P.A. (Lond.), D.M.A.

The law relating to local government conferences is to be found in s. 267 of the Local Government Act, 1933, as modified by the Local Government Act, 1948, s. 147, sch. 2, part V, and as otherwise prescribed in the Local Government (Conferences) Regulations, 1948 (S.I. 1948, No. 1932). The former statutory provisions, contained in s. 2 of the Public Health and Local Government Conference Act, 1885, were confined to urban and rural district councils and, as regards officers, to the clerk of the authority only, but the present provisions embrace all officers and every type of local authority, including parish councils by virtue of the Act of 1948, but excluding port health authorities.

A local authority may pay any reasonable expenses incurred by members or officers of the authority or of any committee thereof, in attending a conference or meeting convened by one or more local authorities or by any association of local authorities for the purpose of discussing any matter connected with the discharge of their functions. They may purchase reports of the proceedings whether or not they attended, provided they were authorized to have done so, and the expenditure incurred was reasonable. There is a proviso which saves like provisions of any other operative enactments.

Accordingly, the County Councils Association Expenses Act, 1890, to quote one instance, continues to govern the position in its special sphere, any county council thereby being permitted to pay out of the county fund as general expenses any reasonable expenses of the attendance of representatives, not exceeding in any case four, at meetings of the association.

There are three conditions imposed by the Local Government (Conferences) Regulations, 1948, namely—(i) the expenses of a member or officer are not to be reimbursed unless his attendance was authorized by the council; (ii) the local authority are not to pay the expenses of more than three members, in addition to any member who is chairman of the association or of one of its committees, in attending one or other of the annual conferences of the Association of Municipal Corporations, the Urban District Councils Association, or the Rural District Councils Association and any meeting of the council or any committee of any of the said associations; (iii) the local authority are not to pay the expenses of more than two members attending any other conference or meeting, convened as aforesaid to discuss any matter connected with the discharge of their functions. It is significant that there is no restriction on the number of officers, provided their attendance is duly authorized, and subject to what is reasonable where the district auditor is concerned. We shall come back to this point in some detail, in connexion with conferences falling outside the purview of s. 267.

In the case of parish councils, two is the operative number of members who may attend any meeting of a county association of parish councils of which they are members, and any meeting of a committee of such an association, but not exceeding two meetings in any one year. This is the provision which, arising from the Act of 1948, was the main reason for the revocation of the previous Regulations of 1934, and the making of the fresh Regulations of 1948.

So far, we have dealt purely with conferences and meetings convened by local authorities, including parish councils, or their respective associations. To send members thereto in excess of the prescribed numbers requires the sanction of the Minister of Housing and Local Government under the proviso to s. 228 (1) of the Local Government Act, 1933, which is simply to the effect, as readers will know, that no expenses paid by an authority shall be disallowed by the district auditor if they have been sanctioned by the Minister. Similar sanction is needed where an authority wish to send members to a conference not expressly authorized by statute, and to charge the expenses in accounts which are subject to district audit.

Incidentally, this applies to the triennial national conference of parish councillors organized jointly by the National Association of Parish Councils and the 56 associations of parish councils, as only meetings of county associations are covered by the Regulations of 1948.

More often than not, the Minister issues a general sanction in the form of a letter to the convening body, which is incorporated in the notice of the conference. It says that the Minister has sanctioned the payment by specified types of local authorities of the expenses which may be reasonably and necessarily incurred in connexion with the attendance of not more than a certain number of delegates (apportioned as between members and stated classes of officers), including, where applicable, the costs of visits arranged, so far as they are not events of a purely social significance and can be regarded as forming integral parts of the conference proceedings. Any delegate's fee is presumably intended to be included as an expense " necessarily incurred." The expenses to which the sanctioning letter refers are otherwise clearly stated as (i) actual travelling and/or subsistence allowance(s) not exceeding the appropriate rates prescribed by Regulations for the purposes of ss. 113 and 115 of the Act of 1948, in so far as those rates are applicable; (ii) miscellaneous expenses in respect of programmes, literature, etc.; (iii) any financial loss allowance to which the delegate(s) would have been entitled under s. 112 of the Act of 1948, and the Regulations made thereunder, if they had been engaged on approved duty as defined in s. 115. Sanction is always subject to production of proper vouchers to the district auditor. Individual applications to the Minister are not necessary so long as the expenditure is within the foregoing limits, as laid down in the general sanction. If it is desired to send more than the permitted number of delegates, separate application must be made to the Minister.

In a few cases, where the conference is not a recurring one or only has a limited appeal, or for some other reason best known to the Minister himself, the official letter published as part of the conference agenda or covering notice merely gives a promise of sanction on receipt of individual applications. Again, information on the types of local authorities who may apply and the permitted maximum number of delegates is stated.

The object of obliging those authorities which wish to be represented at a conference to enter into correspondence with the Department can only be to act as a deterrent to fulfilling that wish. Whether the time and energy consumed on the part of the civil servants and local government officers, in exchanging polite letters merely confirming a sanction already promised, is worth while is debatable. This method of approach by the Minister is surely an indication that he is not wholly convinced of the value of the conference, at any rate so far as local authorities are concerned. A lot of work, as must be evidenced by the collective result on the Department's file of applications from up and down the country, and lengthy letters of reply in each case, could be avoided if the Minister either issued a general sanction or else vetoed the conference, as regards local government, by totally withholding his sanction. This compromise of calling for individual applications seems curious, especially when

it is borne in mind that the applicant authority is not required to make out a case justifying its application. Reflecting thus prompts the recollection of an occasion not so long ago, when an urban district council desired to send two members instead of a member and an officer to a conference, the centre for which was not much more distant than an hour's drive. Alas, the Minister was not prepared to authorize payment of the two members' reasonable expenses in attending one day of the conference, but, time being short, the members had already been nominated as the council's delegates and the delegate's fee of 12*s.* 6*d.* paid in each case. A further exchange of letters resulted, in order to secure the Minister's (reluctant) approval of the excess payment of 12*s.* 6*d.*, the councillors having readily agreed in the circumstances to meet all other expenditure themselves. One means of avoiding this sort of thing might be to fix population limits (restricting attendance to the larger authorities) and/or some arbitrary amount beyond which a local authority should not go in sending representatives to a conference so that, where individual applications are called for, they would be limited to those local authorities incurring expenditure substantial enough to merit "vetting" by the Minister. Within such a limit, would it matter very much whether the delegates of councils were members or officers? Having got this far in our train of thought, it has to be conceded that silly situations will still occur such as the example just described, when the proposed expenditure narrowly exceeds the prescribed financial limit, but it would be open to the delegates to meet any negligible over-expenditure themselves. The better solution undoubtedly seems to be abandonment by the Minister of his practice of calling for individual applications from local authorities, on the ground that a promise of sanction is tantamount to an outright general sanction, and the exchange of letters is merely a formality. Surely it could be left to the wise discretion of local authorities, to make their own decisions on the face of a general sanction given by the Minister in the confident knowledge that it would not be abused. A general sanction could still be restricted to certain types of authorities and could conceivably introduce limits on population, financial resources, and/or expenditure involved. An example of this line of approach to the problem by the Minister is to be found in the case of the 1954 National Jubilee Conference of Parish Councils, where he gave a general sanction limited to parish councillors in membership with the National Association of Parish Councils, and discriminating between parish councils whose population exceeded 15,000 (two delegates—a member and an officer), those with a less population (one delegate only), and any parish meeting (one delegate only).

Alternatively, a statement could be incorporated in the Minister's sanction that he considered attendance at the particular conference more suitable for certain prescribed types of authority.

All too often, it appears that Government Departments have forgotten the obvious tribute due to local government, which was put into words by the Local Government Manpower Committee, when they wrote that they recognized as a guiding principle that local authorities were responsible bodies competent to discharge their own functions, and that they exercised their responsibilities in their own right.

We might pause here to cast a brief glance, for the sake of comparison, at Scottish law where we find that s. 119 of the (English) Local Government Act, 1948, enacts, subject to limitations with respect to numbers as prescribed in the Local Government (Scotland) (Conferences) Regulations, 1948, similar provisions to those contained in s. 267 of the Act of 1933, but goes further by empowering the Secretary of State to recognize for the time being bodies or associations for the purposes of the section, such recognition enabling a Scottish local authority to pay allowances to members within the limits laid down in the Scottish Regulations of 1948, in respect of expenses reasonably incurred in attending the conference(s) or meeting(s) convened by the body recognized. There are strict limitations on numbers attending conferences outside Scotland. This system of recognition might usefully be adopted south of the border. Where any body or association has not been so recognized by the Secretary of State, he adopts the practice, the principle of which has already been examined critically as regards English law, of indicating that he will be prepared to consider favourably applications from individual county and town councils in Scotland, for his approval in terms of s. 339 of the Local Government (Scotland) Act, 1947, to the payment of the appropriate expenses necessarily incurred in being represented at the body's conference or meeting. The section, which does not apply to district councils, permits with the approval of the Secretary of State and subject to certain other qualifications, any payment for any purpose which in the opinion of the council is in the interests of the council, its area (in whole or in part), or its inhabitants. No instance has been detected of a general sanction under this section.

Before leaving Scottish law, it is interesting to note a statement incorporated in a comparatively recent notice of meeting, to the effect that the attendance of any official was a matter for the discretion of the local authority and did not require the Secretary of State's specific approval.

This has a direct bearing on the attitude lately adopted by the Minister of Housing and Local Government which appears to constitute a comparatively recent change of policy, in that the Minister now takes the view that a local authority has the power laid down by s. 267 of the Act of 1933, to send officers to conferences covered thereby, but, in view of that specific provision, the Minister's consent is required where the conference does not fall within that section. In pursuance of this line of interpretation by the Minister, his general sanctions to convening bodies invariably express the maximum number of members and officers (and sometimes the class of officer) who may be appointed to attend their respective conferences. It appears that there is at least one instance on record where the district auditor has contended that the local authority cannot go beyond the Minister's terms of permission. Nevertheless, the view is strongly held within the local government profession and has a good chance of being proved right, if and when put to the test, that the Minister has no such power to limit the attendance of officers—the only limiting factor being the question of reasonableness. The test to be applied is whether attendance at the particular conference would enable the officer(s) to undertake their duties on behalf of the employing authority more efficiently. If the authority are satisfied on this score, then it seems reasonable for them to reimburse the expenses of attendance, and take the risk of objection by the district auditor.

Another aspect of this matter on which the Minister has taken a stern line is in regard to medical officers of health who hold joint appointments under more than one authority. Apparently, the Minister takes the view that in such circumstances the employing authorities cannot be allowed to nominate their part-time medical officer as, for the sake of argument, a third officer-delegate when the permitted number is two. The idea is that the authority should not be placed in a more favourable position than one with a full-time medical officer.

It will not be amiss to conclude with a reference to two statutory provisions that come within the saving proviso of s. 267 of the Act of 1933.

Section 83 of the Education Act, 1944, gives a special power to local education authorities to organize or participate in

organizing conferences for the discussion of questions relating to education, and to expend such sums as may be reasonable in paying or contributing towards any expenditure so incurred, including the expenses of any person authorized by them to attend. The section is made subject to the Educational Conferences Regulations, 1945, S.R. & O. 1945, No. 699, as amended by S.I. 1948, No. 195.

The Road Traffic Act, 1956, s. 5 of which removes any previous doubts as to lawful authority for road safety expenditure by local authorities, provides conditionally in sch. 2 for the payment of travelling and other allowances in respect of attendance at road safety conferences, whether by members of local authorities or by co-opted members of any road safety committee established under the Act. These provisions have not been brought into operation at the time of going to press.

In a further contribution, the Regulations governing local government conference expenses will be examined.

MISCELLANEOUS INFORMATION

WEST RIDING WEIGHTS AND MEASURES DEPARTMENT

Coal causes more anxiety than any other commodity to most weights and measures departments, judging by the reports we receive. In his report for the year ended March 31, Mr. J. W. Hopkinson, chief inspector to the county council of the West Riding of Yorkshire, says by far the greater number of cases brought before the courts deal with coalmen and, on the basis of such figures as he can present, he wonders what kind of statistics would be available if a sufficiently intensive inspection could be put into this duty.

Short weight may be the main but not the only problem, as is shown by the following paragraph. "One local authority in the West Riding has agreed to its inspectors of weights and measures co-operating with the Ministry of Fuel and Power in relation to the prices charged for various grades of coal. From information which has been given to me it is apparent that even where correct weight is established in relation to the number of sacks of coal, the purchasing public can still be defrauded by paying for grades other than those represented on the consignment notes. Rationing and shortage of supply of the best grade coal inevitably lead to malpractices such as these."

The only instance of what might be considered a misleading statement as to the weight of pre-packed food, to which attention had to be drawn, concerned a firm of poultry processors who consign frozen poultry to all parts of the country. The problem was to state the minimum net weight of the packs. As the report goes on to say, the importance of representation of weight of pre-packed foods is becoming greater by new methods of salesmanship such as self-service stores.

THE NATIONAL OLD PEOPLE'S WELFARE COUNCIL

The report of the National Old People's Welfare Council for the year ended March 31, 1956, describes constructive progress in increased and improved care of the elderly both by voluntary and statutory bodies. It is emphasized that when considering any aspect of old people's welfare it is important that the primary concern should always be the need of the individual person; what he requires; what he desires; and how his personal life can be helped; and that consultation with, or the views of, an elderly person who requires help, may sometimes be overlooked by a committee busy with organizing administering services for a group of people. Important issues, not to be overlooked, include a single room in a home and encouragement to have one's own possessions, even where a room is shared—the visitor who calls as a friend and regards the friendship of mutual help-clubs "of" and not "for" old people.

The number of local people's welfare committees increased to 1,205. Most counties have a committee and regional committees cover several areas so that the whole of the United Kingdom is covered in one way or another. Detailed information is given in the report as to the varied activities which are undertaken by typical committees. It is explained that friendly visiting, chiropody, mobile library services, laundry services, housing schemes, communal homes, boarding out, outings for house-bound people by means of specially adapted buses or cars or by wheel-chairs, social clubs, clubs with special facilities such as cookery classes for widowers and old men living alone are the many ways in which old people's welfare committees and the voluntary organizations which they link work together towards the happiness of old people so that they may remain independent, yet wanted and cared for in the community.

The report shows that there is a growing awareness of the need for friendly visits to be undertaken regularly and by informed visitors; and that there is still a need for the expansion of visiting services in some areas and the development of a better scheme in others.

An account is given of the training schemes provided for voluntary workers, as also for matrons and wardens of old people's homes, through the grants by the King George VI Foundation. Development of clubs and club activities steadily increases each year and there are now well over 5,000 clubs throughout the country, many of which are open daily and several times weekly. Grants amounting to £58,057 were made during the year from funds provided by the King George VI Foundation. An important part of the work of the council is the preparation of booklets, leaflets and memorandum on various aspects of work for the elderly. These publications are in great demand both in this country and overseas.

GLAMORGAN FINANCES, 1955–56

The geographical county of Glamorgan contains 1,200,000 people, almost half the population of Wales, and the county council, which provides services for a population of 737,000, is considerably the largest of the Welsh local authorities.

Expenditure of the county council for 1955–56, as shown in the booklet published by county treasurer Mr. W. H. G. Cocks, F.I.M.T.A., F.S.A.A., totalled £14½ million of which £2½ million fell to be met from rates: miscellaneous income produced £1 million and the balance of £11½ million was received as government grants.

Rates levied at 14*s.* 6*d.* fell short of expenditure. This was in accordance with the budget forecast but the actual deficit of a 6*d.* rate was considerably less than that originally estimated: the reduction of £37,000 in the revenue balance left a figure of £774,000 in hand at the year end, of which £558,000 was represented by cash.

Capital expenditure for the year was £1¼ million: one-fifth of this amount was charged direct to revenue. Two-thirds of the total was spent on education and of the loan charges on the outstanding debt (the latter is £4½ million) 72 *per cent.* was chargeable to education. The treasurer refers to the stricter control now being exercised over loan sanctions on all services except education and points out that although in theory no restrictions are in force regarding the granting of loan sanctions for that service quite a strict control is being maintained on starting dates. Due to these various controls it is estimated that the 1956–57 capital estimates will be considerably underspent.

At January 1, 1956, there were 134,000 pupils on the school registers of whom 90,000 were in primary schools. An industrial county like Glamorgan has a heavier burden for education than many authorities, first because the ratio of children to total population is higher and second because a larger proportion of the children are educated at public expense.

Forty-two *per cent.* of Glamorgan children took school meals. The unit cost was 1*s.* 8½*d.* (9·0*d.* food and 11½*d.* overheads): this compared with a figure of 1*s.* 9*d.* approved by the Ministry of Education.

The gross cost of the children's service was £314,000, less by £8,000 than the figure for the previous year. A reduction is a common experience in many authorities: in Glamorgan the figures of children in care for three years were as follows:—

Year	*Total in care*	*Boarded out*	*Residential Accommodation*	*Other (residential employment over 18, etc.)*
1953–54	1,067	484	491	92
1954–55	1,019	477	432	110
1955–56	979	449	410	120

If car and motor cycle licences reflect financial well-being Glamorgan residents' prosperity must be rapidly increasing. In 1955–56 77,000 private car licences were issued, an increase of 85 *per cent.* over the 42,000 of 1951–52: motor cycle licences at 26,000 increased by 47 *per cent.* over the same period.

It is interesting also that the four year decline in dog licences was reversed in 1955–56, the figure of 43,000 for that year showing a slight increase over the previous year.

Like many other Welsh counties Glamorgan has not yet found a complete use for the income accruing from Welsh Church fund moneys handed to it as a result of the Welsh Church Act, 1914. There was a surplus of £1,800 on the revenue account for the year and the capital fund at March 31 amounted to £377,000, an increase of £86,000 over the amount originally received from the Welsh Church Commissioners.

NATIONAL ASSOCIATION OF ALMS-HOUSES ANNUAL REPORT

The report of the National Association of Alms-houses for the year ended June 30, 1956, is evidence of another year of useful activity. Mainly through grants by local authorities and with the help of the Association almost £1½ million has been or is being spent on the modernization and improvement of alms-houses in different parts of the country. But it is admitted that there is still much to be done. The membership of the association increased to 514, representing 903 sets of alms-houses providing accommodation for about 12,000 people. Consideration is being given in several areas to the county council contributing as the welfare authority towards the cost of looking after the tenants of groups of alms-houses. Clearly, this is one way in which elderly people can be prevented from seeking admission to residential accommodation under the National Assistance Act and, as explained in the report, the cost to a welfare authority would be no more than that of maintaining one resident in a local authority home.

Special attention is given in the report to the attitude adopted by local authorities in granting relief from rates under s. 8 of the Rating and Valuation (Miscellaneous Provisions) Act, 1955. It seems that many local authorities are refusing any relief under the section and, it is suggested, there are ample grounds to justify the introduction of amending legislation. Many local authorities seem to be adopting the line of regarding the statutory limitation on the amount of rates payable by alms-houses trustees as a sufficient concession. Further, they seem not to be willing to exercise any discretion in the matter but, rather, to postpone the consideration of any case until they know what will have been the result of appeals in ordinary commercial and domestic cases. Some local authorities are said to have refused remission of rates because they are under the impression that if the charity cannot afford to pay them the alms-houses people can pay them and recover the money from the National Assistance Board. It is explained, however, that this is an entirely erroneous supposition as in the first place the terms of the majority of alms-house trusts direct, *inter alia*, that the alms-houses shall be available rent and rate-free and, therefore, the trustees have no power to make it a condition of residence that the alms-people shall defray the cost of the rates. Further, the National Assistance Board, in assessing the need of occupants of alms-houses, value the free accommodation at 5*s*. a week for single and widowed people and at 6*s*. a week for a married couple. These sums are over and above the scale rate of assistance. Alms-people cannot therefore claim anything extra to meet the cost of rates unless the rates should exceed £13 a year on a single person's house and £15 12*s*. a year on a married couple's house. Consequently, if alms-people were made to pay the rates the money must come out of their slender resources. It is noted, however, that several local authorities of which rural district councils are in the majority, have granted complete remission to alms-houses by virtue of their new powers.

LOCAL GOVERNMENT ELECTIONS ACT, 1956

The main purpose of this Act is to secure that rural district and parish council elections shall be held together throughout the country. Originally parish councils were elected by show of hands. Even though a poll could be demanded the show of hands was still the first necessity under the Local Government Act, 1933. It is only since s. 60 of the Representation of the People Act, 1948, came into operation that the election has been by means of nomination and, if necessary, a poll. Experience has shown that the expense of these elections has been high in relation to the rateable value of the parish. They have often exceeded a rate of 3*d*. in the pound and have sometimes been as much as 8*d*. or more. This gave much concern to the National Association of Parish Councils and discussions were held with the Home Office in which the Rural District Councils Association joined. Some suggestions were made which did not require legislation such as the use of volunteers in manning polling stations. Other suggestions, however, required legislation which has been included in the new Act.

The Act provides, in effect, that the next parish council elections shall be postponed in those cases where they do not synchronize with the rural district council elections until the next year when they will so synchronize. Where parish councillors do not at present retire in the same year as the rural district councillors for the same area, the retirement of the parish councillors will be postponed to coincide with that of the rural district councillors; and the county council will have power to adjust the terms of office of rural district and parish councillors so far as may be necessary to comply with the requirement of synchronization. To facilitate taking the polls together, the boundaries of any wards into which a parish may be divided for rural district elections are not to differ from the boundaries of the wards established for parish council elections.

Each parish will still be responsible for meeting the expenses of its own election but the procedure will be simplified. Previously, the parish council paid the expenses direct. This caused difficulty because s. 193 of the Local Government Act, 1933, limits parish council expenditure to a rate of 4*d*. in the pound without the consent of a parish meeting and to a rate of 8*d*. without the approval of the Minister. Under the new Act, the expenses of the election are to be paid by the rural district council and charged as a special rate on the parish in question.

Another provision in the Act concerns the filling of casual vacancies on a local authority, other than a parish council. Under s. 67 of the Local Government Act, 1933, the election to fill a casual vacancy must take place within 30 days of notice of the vacancy being received. This period does not exclude such days as Sundays and bank holidays. Under the Election Rules made under the Representation of the People Act, 1948, 20 days public notice must be given of a by-election to fill a casual vacancy in an urban district and 22 days in a rural district. In computing each of these periods a Sunday, Christmas Day, Good Friday, bank holiday or day appointed for public thanksgiving or mourning and the Saturday before and the Tuesday after Easter Day or Whit Sunday are disregarded. Sometimes, therefore, the period of notice to be given has been almost as long as the period within which the election must be held. This has lead to administrative difficulties and it might limit the choice of a suitable date on which to hold the election. Section 8 of the new Act excludes the days mentioned in the Election Rules from the 30 day period within which the election must be held. It therefore puts this period and the 20 or 22 day period on a par with each other.

LEEDS PROBATION REPORT

The report of the probation committee for the city of Leeds indicates the need to do something more than consider such figures as the number of cases dealt with by probation officers in order to get a true picture of their work. For example, it is stated that " after-care cases which remain at approximately 100 cases *per* month, include some 25–30 men from corrective training or preventive detention. These cases present very real problems to the probation officer and the amount of work which is demanded is apt to be lost in the total figures given in the report. To read any report involving some 900 persons under supervision cannot give the reader any idea of the peculiar problems in any given case. It is to be remembered that in a field of social work so wide as is the probation service an after-care or a matrimonial case can make heavy demands upon the time and capabilities of the officer concerned.

Because of an increase in the number of probation cases there was a tendency for case loads to get out of balance, and a system of " pairing " has been introduced so that a balance can at any rate be maintained as between officers responsible for adjacent areas.

Mr. G. W. Appleyard, principal probation officer, states that " It is very seldom that a probation officer is asked to prepare a report on an adult offender who is remanded in custody, yet in these cases the decision which the court must make is frequently a difficult one, whilst on the other hand the probation officer has much more time to obtain and verify information received not only from the offender but from other related sources. The fact that a report can be better prepared during a substantial adjournment or remand merits the earnest consideration of the magistrates."

The attitude of the parties in matrimonial cases when a probation officer is approached, is the subject of comment by Mr. Appleyard. The applicant, he says, expects the probation officer to wield a big stick to make the other party do as he or she ought, but, in fact, in matrimonial conciliation the probation officer cannot do this and should indeed not attempt to do so, for in family conflicts any co-operation which is based solely upon coercion is likely to be very short-lived.

Magistrates can obtain a much better idea of what probation officers have to do if they can see something of his work at first hand. A number of Leeds magistrates have taken advantage of the opportunity extended by the probation committee to obtain greater insight into the work of the probation officers by informal discussions in the probation office, by occasional home visits with probation officers and by visiting the probation hostels. One magistrate expressed some surprise at the friendly reception accorded to the probation officer at all the places which were visited.

MINISTRY OF PENSIONS AND NATIONAL INSURANCE ANNUAL REPORT

The annual report of the Ministry of Pensions and National Insurance for 1955 gives details of the various services for which the Ministry is responsible. On family allowances, it is shown that at December 31 about 3¼ million families containing about 8¼ million children were receiving allowance of 8*s.* a week. The proportion of families of different sizes in Great Britain was:—

2 children	64·1	*per cent.*
3 ,,	23·4	,, ,,
4 ,,	8·0	,, ,,
5 ,,	2·8	,, ,,
6 or more	1·7	,, ,,

On retirement pensions, it is explained that persons who remain at work beyond pensionable age instead of retiring and drawing their pension can earn pension increments—one increment for every 25 contributions. By the end of 1955, it was possible for the maximum of 10 increments to be paid at the highest rate. A single person can now thus qualify for a pension of 55*s.* and a married couple for 90*s.* if the husband only was insured or 110*s.* if both were insured. A large percentage of insured persons are taking advantage of these provisions. At the end of the year the number of persons who had reached minimum pension age during the previous five years and had not retired was nearly 450,000. About 20 *per cent.* of the men and 12 *per cent.* of the women who were granted pensions during the year had deferred their retirement for the full period of five years.

Questions of classification or insurability are determined by the Minister whose decision is final and conclusive subject to appeal on a question of law. Four appeals were taken to the High Court in 1955. In each case the decision of the Minister was upheld. One appeal related to a man normally employed as a sheeter. He was killed while acting as a member of the executive council of a trade union. It was held that when such a member is carrying out the policy of the executive council as decided by himself and the other members he is not in so doing acting under a contract of service and is therefore not insurable under the Industrial Injuries Acts. In another case, it was held that where a contract of service is made which is to become operative when a room in a house is vacant the person concerned is not engaged in employment under the contract until the room becomes vacant. Another case related to a voluntary patient in a mental institution who did work in a variety of ways in the grounds of the institution. It was held that the work was not done under a contract of service but was part of the treatment and consequently the patient was properly included in the class of non-employed persons. As Mr. Justice Harvard said in the course of his judgment "the practice in this mental institution (and no doubt also in similar mental institutions) is to encourage the patients to do a reasonable amount of work so that their minds may be occupied and they may be kept physically fit." It was contended in another appeal to Mr. Justice Harvard that the Minister had no power to delegate and that it was essential under the Act that he should bring his own personal mind to bear upon every single one of those cases which may be presented for determination. Mr. Justice Harvard took the contrary view and considered that the Minister is acting properly and lawfully if he acts through one of his senior officials who is duly authorized so to act on his behalf.

Contributions

The amount of contributions collected from employers and insured persons was £22 millions. The number of permits granted to employers with a substantial number of employees to use machines for impressing stamps on cards increased by 14 *per cent.* This represents 13 *per cent.* of the total contributions collected. The permits granted to large employers—normally with at least 500 employees—for direct payment of contributions by cheque to the Ministry's local offices increased by 25 *per cent.* This method of payment continues to grow and about eight *per cent.* of the total contributions were collected in this way.

Criminal proceedings for failure to pay contributions and allied offences were brought against 3,705 self-employed persons and 34 non-employed persons compared with 4,234 and 52 respectively in 1954. Proceedings against employers were 923 against 1,163.

Prosecutions for trafficking in used stamps and other misuse of stamps rose from 243 in 1954 to 320 in 1955. The Minister took proceedings against 1,014 persons for offences connected with improper obtaining of benefits as compared with 1,749 in 1954 and 1,483 in 1953.

SWANSEA WEIGHTS AND MEASURES DEPARTMENT

In his annual report, Mr. F. W. Brown, chief inspector to the county borough of Swansea, makes the familiar criticism about the use in some shops of self-indicating scales, and adds that directions have been given that the scales must be so placed as to allow an adequate view of both the customers' and vendor's weight charts. He also points out that in positions of a temporary nature, and in particular on movable market stalls, self-indicating scales, other than level proof types, are not reliable instruments to use. In any type of scale with a chart, he says, the customer is well advised to note whether the indicator is correctly registering at zero before any weights or goods are applied to the scales.

Of 40,645 weighing amd measuring appliances examined, only 384 were rejected for adjustment and repair. In contrast, of 192 weighbridges examined 45 were rejected for repair and reverification. Proprietory brands of pre-packed foods which are usually mechanically handled, weighed, and packed, continued to show a reliable accuracy in their statements of weight. Food packed or pre-packed locally on trade premises did not appear so consistently accurate, and 15 traders had to be cautioned for minor deficiences in a variety of articles.

The description "Finest Welsh Butter, Farmhouse Brand" would naturally appeal to Swansea shoppers. A prosecution was instituted where it had been applied to a mixture of New Zealand and Welsh butter. In imposing a substantial fine, the chairman of the bench said they were satisfied that the misrepresentation was a deliberate fraud.

In connexion with its duties under the Shops Act the department paid a visit upon a complaint, to a large furniture store, the temperature of which at the time of the visit on a winter's day was 48° F. Adequate means of heating was available says the report, but owing to an inexperienced operator, boiler pressure had been allowed to drop to 40 *lbs.* The manager was cautioned.

NOTTINGHAMSHIRE LOCAL AUTHORITIES

The annual booklet prepared by Nottingham county treasurer, J. Whittle, B.Com., A.C.A., F.I.M.T.A., in collaboration with the other financial officers in the county is quite one of the best in the country. The 1956–57 edition contains all the usual features and in addition two notes of especial interest on the revaluation and on housing finance.

A comprehensive analysis of the old and new rateable values is given for each county district: over the county as a whole the revaluation caused an increase of 68·5 *per cent.* as compared with 69·9 *per cent.* over England and Wales. This has meant that Nottinghamshire continues to receive appoximately the same Exchequer equalization grant as before, equivalent to 29 *per cent.* of its expenditure.

Average rateable values are a little below the national average, for example the figure for domestic properties in the county is £20 whereas in the country as a whole it is £24: the reverse operates only in four kinds of hereditament, one of which is licensed premises—and to those who know the Midland hostelries this particular result is by no means surprising.

Messrs. F. M. Sainsbury, F.I.M.T.A., and G. W. Baggaley, F.I.M.T.A., treasurers respectively of Beeston and Stapleford and West Bridgford urban district councils have contributed an excellent note on housing. They point out that during the past ten years the capital expenditure incurred by county district councils on housing has far exceeded the capital expenditure on all their other services put together: at April 1, 1956 there were 168,000 dwellings in the administrative county of which 35,000 were owned by the local authorities. In one authority 32 out of every 100 houses are council owned, the average for all boroughs and urban districts is 24 out of every 100.

Further changes are on the way in relation to housing subsidies, including the total abolition of subsidies in respect of houses built for general needs. At present, however, even with a £10 subsidy the economic rent of a new three-bedroomed house costing £1,650 in Nottinghamshire is 42*s.* per week. It is interesting to recall that in the period 1935–1939 the capital cost of a similar house was £420 and the economic rent, unreduced by any subsidy, 8*s.* 3*d.* a week. In the period 1945–50 when money was cheap and subsidies equal coincidentally to this same figure of 8*s.* 3*d.* the weekly rent was limited to 13*s.* 3*d.*

The authors of the note indicate that most district councils have had to review rents in this financial year and have usually adopted one or more of the following methods:—

1. an increase in the weekly rent of a fixed amount per house;
2. a percentage increase on existing rents;
3. equalization of all rents particularly between pre-war and post-war houses;
4. pooling of interest charges over all the loans of the council;
5. a differential rent scheme, *e.g.*, increasing rents to the average economic rent and using existing subsidies to finance a rent rebate scheme for those unable to meet the average economic rent.

Four out of the 20 Nottinghamshire county district councils have discontinued the rate contribution to housing as from April 1, 1956: in 1955–56 over the county as a whole 38 *per cent.* of housing cost was met by public subsidies and 61 *per cent.* from rents.

In his foreword Mr. Whittle says that the circulation of the booklet is increasing: its excellence certainly deserves it and we commend it to our readers.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

BILL OF INDICTMENT

At question time in the Commons, Mr. R. T. Paget (Northampton) asked the Attorney-General why application was made for a special bill of indictment against Mrs. Richardson after the magistrates had decided that there was no evidence against her.

The Solicitor-General, Sir Harry Hylton-Foster, replied that the Director of Public Prosecutions was advised by counsel that an application should be made.

Mr. Paget said that when the matter came before the Judge at the trial it was submitted, as the magistrates had already found, that there was no evidence, and counsel for the prosecution then said he agreed that there was no evidence. Would the Solicitor-General give an assurance that the real reason for that action was not in order to place before the jury a statement by Mrs. Richardson highly prejudicial to Mrs. Clarke which could not otherwise have been put before the jury at her trial?

In reply, the Solicitor-General pointed out that the form in which the evidence came out at the trial was not necessarily that which it assumed before the magistrates. The reasons submitted were those which appeared to the learned judge to be sound when he had considered the matter for two and a half hours. He could give the assurance.

Mr. C. Royle (Salford, W.) said that the special bill of indictment was applied for only a very few days before the sessions, and because the defence had to be prepared for Mrs. Richardson she had to spend many more weeks in custody while that defence was being prepared. Was not that kind of action calculated to give justices the impression that in their function as examining magistrates their time had been wasted? Would not the Solicitor-General see that there was no repetition of that kind of thing in future when, after all, the magistrates were vindicated by the Judge and jury at the trial?

The Solicitor-General reiterated that the evidence did not come out in the same form as at the trial. He said that he could not undertake to alter what Parliament had laid down in that respect. If Mr. Royle would look at the indictment rules, which were framed under the particular statute under which the application was made, he would find that there was a whole paragraph with subparagraphs devoted exactly to the case of preferring a bill when the magistrates had themselves refused to commit. Parliament obviously meant that to be a contemplated action.

LEGAL AID

Mr. W. A. Burke (Burnley) asked the Attorney-General if he was aware that an assisted person was still financially liable to make continuing monthly payments under the Legal Aid and Advice Scheme after he had been advised to ask for his certificate to be discharged; and if he would take steps to end that liability.

The Solicitor-General replied that after an assisted person's certificate was discharged he was still liable, up to the maximum amount of his contribution, for the costs already incurred on his behalf, and to end his liability on discharge would only transfer that obligation to the taxpayer. He was not, therefore, prepared to take steps to end that liability. But if Mr. Burke would let him have particulars of any case in which hardship had resulted from the application of the Regulations in that respect, he would have inquiries made.

Mr. Burke: " Is the Solicitor-General satisfied with the supervision by the Legal Aid Society when a case which has been waiting for four years gets on the list, and then the assisted person is advised to withdraw it, but still has to pay the full costs? Are certificates given too readily and is the progress of cases watched carefully enough ?"

The Solicitor-General: " Obviously the assisted person must pay what costs have been incurred on his behalf. That is obvious common sense. But if he has contributed more than in fact has been incurred on his behalf, the balance is paid back to him."

POLICE FORCES

The Secretary of State for the Home Department, Major Lloyd-George, stated in a written Parliamentary answer that on October 31, 1956, the total authorized establishment of police forces in England and Wales was 73,907 male officers and 2,494 women officers; the actual strength was 65,595 men and 2,220 women.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Wednesday, December 5

CINEMATOGRAPH FILMS BILL—read 1a.

Thursday, December 6

PRESS AUTHORITY BILL—read 1a.

PATENTS BILL—read 3a.

EXPIRING LAWS CONTINUANCE BILL—read 3a.

HOUSE OF COMMONS

Friday, December 7

NEW STREETS ACT, 1951 (AMENDMENT) BILL—read 2a.

PUBLIC HEALTH OFFICERS (DEPUTIES) BILL—read 2a.

PERSONALIA

APPOINTMENTS

Lord Somervell of Harrow has been elected treasurer of the Inner Temple for 1957. Sir Patrick Spens, Q.C., M.P., has been elected reader for the Lent vacation.

Mr. Malcolm John Morris has been appointed recorder of the borough of Margate, Kent.

Mr. Donald Leslie Overton has been appointed clerk to Leighton Buzzard, Beds., urban district council. He will succeed Mr. J. Tillotson Hyde on January 1, next. Mr. Hyde is remaining with the council, to serve on the legal side. Mr. Overton has been senior assistant solicitor to the town clerk of Peterborough, Northants., since 1954. He started his local government career as a junior clerk in Croydon, Surrey, town clerk's department and was later articled to the town clerk. He qualified and went to Peterborough as junior assistant solicitor in 1952. Mr. Overton was in the Royal Navy during the war. He joined as a signalman with the Dover Patrol and was commissioned in 1943. He took part in the Normandy landings and then saw service in the Far East before his demobilization in 1946.

Mr. G. V. Corney, clerk to Tettenhall, Staffs., urban district council, has been appointed a local government commissioner in British Guiana.

Mr. T. Owen Jones, who has been assistant solicitor with Chester corporation since April, 1954, has been appointed assistant solicitor with the National Coal Board at Manchester. He will take up his new duties early in the new year.

Mr. D. G. Ayress has been appointed deputy financial officer to Kingswood, Glos., urban district council in succession to Mr. D. A. Perriman, who has been appointed cost assistant to Cossham and Frenchay Hospital Management Board.

Mr. P. A. Marriott, governor of Parkhurst Prison, Isle of Wight, has been appointed governor of Pentonville Prison, London, in succession to Mr. W. J. Harvey, who retires on March 31, next.

Brig. E. J. Paton-Welsh, governor, class two, of Winchester prison, has been appointed governor, class one, of Leeds prison.

RETIREMENT

Chief Superintendent R. C. Floyd, head of the Seaforth division, is retiring at the end of the year after 37 years' service with the Lancashire constabulary.

OBITUARY

Mr. Horace Percival Hind, late chief constable of Bath, whose death we announced in our issue of December 8, was 61 years of age. He had been chief constable of Bath since 1937, when he was appointed to succeed the late Mr. Nelson Ashton, who was killed in a motor accident. Before coming to Bath, Mr. Hind was chief constable of Rochester, Kent, for three years. During the last war he was Civil Defence Controller for Bath and in 1942 he was awarded the O.B.E. for " a very high example of courage and devotion to duty " during air raids on the city. As a young man he enlisted in the Royal Tank Corps on its formation, served overseas, and rose to the rank of Regimental Quarter-master Sergeant. He was then commissioned and later had experience as adjutant of the regiment. He joined the Nottingham police force as a constable and became an inspector before taking his appointment at Rochester. Mr. Hind leaves a widow and two sons.

NOTICES

The next court of quarter sessions for the borough of Shrewsbury will *not* now be held on Thursday, December 20, 1956 as announced in our issue of December 1, but will be held on Wednesday, January 16, 1957, at the Shirehall, Shrewsbury, commencing at 11 *a.m.*

ADVICE

If there's a choice—then never choose
The case you simply cannot lose,
For it'll be—as sure as sin—
The very one you'll never win.

J.P.C.

REVIEWS

A Concise History of the Common Law. By Theodore F. T. Plucknett. London: Butterworth & Co. (Publishers) Ltd. Price: 47s. 6d. net.

This work is unusual in that it is being published in London by Messrs. Butterworth and in the United States by Messrs. Little, Brown and Company, and that the text and pagination in both countries correspond. The work began with an edition published in 1929 by the Lawyers' Cooperative Publishing Company of Rochester, New York, and in 1936 that company and Messrs. Butterworth brought out a second edition. These facts are worth mentioning, because the learned editors have throughout been able to draw upon the rich mines of research into English institutions which have been opened by American lawyers, as well as upon the standard English sources. Footnotes show throughout what these sources are in both countries, and are at times especially illuminating. One finds, too, a special table of references to mediaeval English authorities from Bracton and the Year Books to the Seldon Society's publications. It is no accident (as the present editor remarks) that the political lawyers who resisted the Stuarts based themselves on Bracton, or that the constitution of the United States was written by men who had Magna Carta and *Coke upon Littleton* as part of the essential background of their thought.

The book falls into two main divisions of which the first is called a "general survey of legal history." The second, entitled "Special Part." deals with specific headings from procedure to the law of succession, and traces each of these from the feudal period onward. In the general survey the sub-divisions are "the Crown and the State," "the Courts and the Profession," and an omnibus group called "some factors in legal history." The last named is again divided into civil law, the canon law, custom, legislation, and precedent. Mention of these headings sufficiently indicates the purport of this particular subdivision of the book. "The Crown and the State," though running only to 80 pages, has a great sweep. In the early pages one traces the periodic contests, and the spells of joint action, between the Crown and the Church; an informative parallel develops later in the book between these ideas and the ideas in the 17th century of absolute power and power limited by some over-riding and permanent law. The compromise embodied in the Constitutions of Clarendon, near the beginning of the book, may be compared with the struggle in the time of Coke and Bacon, between Chancery and common law. It is shown that Bacon was as sound a lawyer as Coke and (on the whole) more honest as a controversialist, but a good deal of confusion has been caused by the use of words like "absolute" and "prerogative," which had changed their meaning since the mediaeval period and have changed again since the conflict of the late years of Elizabeth and the reigns of James I and Charles I. So again, to turn to the second or "special" part of the book, one finds an account (which is illuminating as well as fascinating to read) of the developments of criminal procedure from the middle ages to Elizabeth, and the changes which have come about since. Many notions which seem fundamental in the middle of the 20th century had to make their way gradually into the legal, and even into the popular, conception of securing justice.

The treatment of treason, murder, and manslaughter, is brief but illuminating, while the history of benefit of clergy verges on the comic. As the learned author justly says of larceny, a huge mass of legislation has tackled points separately and with little reference to related points, while the benefit of clergy has constantly crept in, often unsuspected, to confuse the classification, especially in regard to penalties. Necessarily, the treatment of the criminal law, which in England has been allowed to develop in so fumbling and tentative a fashion, must in a book of this scope be on broad lines, but the learned author has succeeded in expressing general tendencies and some underlying modes of thought. The transition from trespass to case in the law of tort has been traced before, but a number of fresh references will be found here to legal publications, from *Fitzherbert* to recent issues of the *Law Quarterly Review*. It is interesting to be reminded, at this point, that the latest of Professor Winfield's contributions to the subject still regarded the tort of negligence as not quite established. Under the caption "liability, civil and criminal," central principles are traced from the Anglo-Saxon period to the modern rule of employer's liability, and this is another place where useful reference is made to American research

To turn to a different topic, the learned author (who has himself produced specialized works upon constitutional development under Edward I and the Lancastrian Kings) is able to show that Maitland and Stubbs were not fully aware of the implications of those periods, and a separate chapter on feudalism points out that the term is modern; those who lived under the system would have attached no meaning to the word. The author traces it from its origin in personal relationships to some of the latest developments upon the Continent, with particular reference to its effects upon land law, which naturally leads to the topic of inheritance and primogeniture. In Maitland's lectures upon equity he records a conversation with a leading continental lawyer, who declared himself unable to understand the conception of a trust; Maitland himself seems to suggest in the same lecture that this conception is not to be found in systems based upon the civil law. The present work points out, however, that the use and the trust in England were parallel to conceptions to be found on the Continent in the fifth century, and that a still more remarkable parallel is to be found in Islamic law and practice. On the other hand, the learned author underlines the proof by Holmes, that the English use did not derive from the Latin usufruct.

We have said enough to indicate the wide scope of this work. We gather that the first part is intended especially for students at a fairly early stage; the learned editor is Professor of Legal History in the University of London. Those topics which fall into his "special part" of the book are described as introductions to the history of a few of the main divisions of the law. If it has seemed from what we have said in this review that the treatment may be scrappy, we may add that although within the compass of 750 pages little can be said about any single topic, the topics are nevertheless well chosen for their illustrative value and, on almost every page, something will be found which is likely to hold the attention of the intelligent reader. Not merely for the actual information given, but also by reason of the manner of presenting it, this new edition will be a valuable extension of the armament of the law tutor, and a welcome addition to the historian's and lawyer's private library.

MAGISTERIAL LAW IN PRACTICE

Herts Advertiser. November 9, 1956

SUSPECTED PERSONS CHARGE DISMISSED

Potters Bar and South Mimms Youths Cleared

P.C. Simpson told Clerkenwell Magistrates' Court on Tuesday that he watched for half an hour in the early hours of Sunday, October 28, and saw four youths trying the door handles of three cars in William Road and Stanhope Street, London, N.W.

The youths, Norman John West (22), *machinist, of* 26, *Mimms Hall Road, Potters Bar; Robert Eustace Briggs* (22), *glass blower, of* 117, *Cranborne Crescent, Potters Bar; Walter Sanders* (21), *machinist, of* 73, *Cranborne Road, Potters Bar; and Alan James Barnes* (20), *carpenter, of* 3 *Cecil Cottages, South Mimms, appeared on bail pleading not guilty to being suspected persons loitering with intent to commit a felony.*

"Walking Back"

After seeing them try the car handles, P.c. Simpson said he questioned the youths and Briggs replied, "What cars? We haven't been near any cars. We are walking back to Potters Bar." After being arrested, they were found to be carrying sufficient money to get home.

Dismissing the charge, the magistrate, Mr. Edward Robey, said there was some doubt as to whether they had intended to commit a felony, but he was satisfied they did approach the cars and tamper with them. They were fortunate other charges had not been brought, he added, binding all four over to be of good behaviour for a year in the sum of £10.

In this case the metropolitan magistrate sitting at Clerkenwell dismissed the charge, but at the same time bound over the defendants to be of good behaviour for a year in the sum of £10 each.

In *R.* v. *County of London Quarter Sessions, ex parte Commissioner of Metropolitan Police* [1948] 1 All E.R. 72; 112 J.P. 118, Lord Goddard, C.J., said in the course of his judgment that the Justices of the Peace Act (1360–1), 34 Edw. III, c. 1 "does enable justices at their discretion to bind over a man, not because he has committed an offence, but because they think from his behaviour he may himself commit or cause others to commit offences against the King's peace. It is abundantly clear that for several centuries justices have bound by recognizances persons whose conduct they consider mischievous or suspicious, but which could not, by any stretch of the imagination, amount to a criminal offence for which they could be indicted."

In the same case Humphreys, J., in his judgment said, "If the defendant were in a position to argue that it is only on a conviction that a person can be bound over to keep the peace the position would be understandable, but *ex parte Davis* is a direct authority to the contrary."

In *ex parte Davis* (1871) 35 J.P. 551, the justices dismissed a charge of assault against Davis and granted him a certificate of dismissal, but, nevertheless ordered him to enter into a recognizance to keep the peace for six months. It was held that they were warranted in so doing. In that case, Blackburn, J., said, "A binding of a party is a precautionary measure to prevent a future crime, and is not by way of punishment for something past."

PARLIAMENTARY FARE

A deliberative assembly is a macrocosm of the individual, and the ills that from time to time beset the human frame are reproduced on a larger scale in every legislative body. The latter, no less than the former, may suffer from over-feeding or insobriety. Too many Bills packed with meaty clauses will produce all the symptoms of parliamentary dyspepsia—torpidity among the members and congestion in the organs of assimilation; an excess of the heady wine of debate, though unlikely to undermine a healthy constitution, may violently disagree with the system and temporarily upset the orderly metabolism of the body politic. When the patient displays symptoms of hyperaesthesia and overstrain, it is time for the physician to intervene; in this guise Mr. Speaker must sometimes prescribe the soothing regimen of tolerance and restraint, sometimes administer the sedative of suspension or the opiate of adjournment. His influence can allay the feverish excitement of question-time, and his wisdom and experience distract the invalid's imagination from the stresses and strains of political controversy.

Nobody will deny that the House of Commons has lately been more than a trifle out of sorts. Incomplete elimination of the irritants and counter-irritants of debate, and severe discomfort in the Middle Eastern region, have left the patient little zest to sit down to his heavy meal of legislation, comprising indigestible chunks of rent reform and a highly-seasoned rehash of the law of homicide. The rest and relaxation of the Christmas recess will come none too soon, and even that may be disturbed by the nervous upset of more than one by-election.

The metaphor may appear exaggerated, but insufficient attention has undoubtedly been paid by political historians to the influence of food and cooking upon the standards of legistation and debate. The uninitiated voter is too little acquainted with what goes on in the commissariat department of the House of Commons; an occasional formal lunch, or tea on the Terrace, provides his only opportunity for getting to know something about those constituents that are of most practical concern to every M.P. The proceedings of the Kitchen Committee, though inadequately reported in the pages of the press, are no less important to the well-being of the body politic, and all its members, than are the activities of the Committee of Ways and Means or Supply. It needs little mental effort to connect the enactment of certain passages of impenetrable toughness (which even a lawyer can hardly get his teeth into) in many modern Acts of Parliament with the post-prandial unease occasioned by a starchy, stodgy series of courses in the Members' Dining Room. Conversely, those occasional flashes of imaginative insight, discernible through a felicitous turn of statutory phrasing (not always due to the parliamentary draftsman), are almost certainly traceable to some rare inspiration of the *Chef*—a tasty omelette, perhaps, or a *soufflé* of airy lightness. It cannot be by mere coincidence that more than one deliberative assembly on the Continent of Europe, where they understand these subtle *nuances*, is known as a Diet.

One member of the public, at any rate, has just now penetrated the culinary secrets of the parliamentary sanctum, and has emerged unenthusiastic and unimpressed. A man recently charged, before the Wimbledon Bench, with being a suspected person loitering with intent to steal, has for the greater part of his life led a nomadic existence, wandering about the country without visible means of support. As he has arrived at the ripe age of 43 without finding it necessary to do a regular job, it is difficult to know whether it is more proper to condemn his careless improvidence or to commend his genius for improvization. His one and only attempt to get employment led him straight to the kitchens of the House of Commons, where he worked for exactly a fortnight. With the air of a statesman *emeritus*, addressing his constituents on the eve of his translation to Another Place, he told the Bench:

> " I could not stand it in the House of Commons. The work is too hard, and I could not put up with the heat of the place."

The sting of his criticism, however, is in the tail, for he added:

> " What is more, the ' grub ' there is terrible. I spent nearly all my wages going out and getting food elsewhere. I can't understand how people can stomach the food put up to them there! "

This unsolicited testimonial did nothing to mitigate the severity of a two months' sentence, which will enable this martyr to the cause of food reform to put into practice the wisdom enjoined by *Ecclesiastes:*

> " Better a dry morsel, and quietness therewith, than a House full of feasting and strife." A.L.P.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

MEIOSIS

In connexion with the extract from *The Gentleman's Magazine* at the foot of the first column on p. 747, *ante*, may your contributor be asked whether he is acquainted with a book (in the American language) called *More than Somewhat*?

Yours obediently,
N. R. TEMPLE.

London.
November 24, 1956.

BOOKS AND PAPERS RECEIVED

Civic Entertainment and its Cost. Preface by Professor William A. Robson. Obtainable from: London Council of Social Service, 7 Bayley Street, Bedford Square, W.C.1. Price 5*s.*

A Receiver of Stolen Property. A Discourse on the Liabilities and Rights of Beekeepers. A Reading before the Honourable Society of the Middle Temple by Master Sir Kenneth Swan. Obtainable from: The Honourable Society of the Middle Temple, London, 1956. Price 2*s.* 6*d.*

Two New Pamphlets. Save our Commons. 2*s.* Right of Way 1*s.* 6*d.* Obtainable from: Ramblers' Association, 48, Park Road, Baker Street, N.W.1.

Wear and Tees River Board. Sixth Annual Report, 1956. March, 1956. Obtainable from: J. E. Laven, Clerk and Chief Financial Officer, Greencroft East, Coniscliffe Road, Darlington. No price stated.

Council for the Preservation of Rural England. Lancashire Branch—Annual Report, 1955–56. Obtainable from: P. A. Barnes, Secretary, County Hall, Preston. No price stated.

Report of Conference on African Land Tenure held in February, 1956 (published, October, 1956). H.M. Stationery Office, London. Price 2*s.* 6*d.* net.

Approved Schools Gazette. November 1956. No. 8, Vol. 50.

The Inspector. Official Journal of the Institute of Shops Acts Administration. Vol. 2, No. 7. October, 1956.

General Report on Incentive Bonus Schemes, 1956. Metropolitan Boroughs' (Organization and Methods) Committee. Director, H. J. Dive, Westminster City Hall, Charing Cross Road, W.C.1. Price 10*s.* 6*d.*

Society of Public Teachers of Law Annual Meeting, 1956. Institute of Advanced Legal Studies, 25 Russell Square, W.C.1.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Bastardy—*Agreement—Subsequent marriage of putative father to mother.*

We read P.P. 2 at 120 J.P.N. 574 with interest as we ourselves have a case very much the same save that there is no court order but the parties entered into an agreement under seal.

At the time of the birth of the child, A, the father of the child, was already married and shortly after the birth he entered into the agreement under seal to pay the unmarried mother, B, 30*s*. per week for the maintenance, etc. of the child.

Earlier this year A was divorced from his wife C, as a result of his association with B and the birth of the child, and about three months ago the father and the unmarried mother were married. Up to that time A had paid the said 30*s*. per week to B regularly. After their marriage, A and B lived together but the child continued to live with the grandparents. A gave B a proportion of his salary to run the home without allotting any specific part of it to the maintenance of the child.

As a result of differences between the parties, A and B have now separated and B wishes to know if she can enforce the agreement against A so that he has to pay her the said 30*s*. per week for the maintenance of the child as before. Does the subsequent marriage of A to B put an end to the agreement completely? Would B be able to take proceedings in the local matrimonial court against A for the maintenance of the child who is, in fact, the child of the parties A and B although not born in wedlock— born whilst A was married to his first wife? HUNDER.

Answer.

We see no reason why B should not sue A on the deed, provided that nothing in the deed itself precludes such action. B cannot obtain an affiliation order since she is not a single woman. She can, of course, apply for a maintenance order for herself on the ground of A's neglecting to maintain her.

2.—Licensing—*Occasional licence—Sale of intoxicating liquor by person other than holder of licence.*

I am rather interested in your reply to P.P. 2 at 120 J.P.N. 495. The practice outlined probably is very prevalent.

On page 733 of *Paterson* (1956 edn.) note (*b*), it states that the owner's "resident manager may hold a licence which will protect the owner from any charge of selling liquor without a licence," and reference is made to *Mellor* v. *Lydiate* (1914) 79 J.P. 68.

If a brewery company owns a public house, provides the liquor and pays those servants, who sell it under the manager who holds the licence, but does not directly take the profits from each sale, it is difficult to see why a similar procedure is wrong if an occasional licence is granted to the manager, for a ball. The manager in person need not personally count or bank the money taken in the public house, nor need he be present during all opening hours.

Is not the case in the practical point distinguished from *Dunning* v. *Owen* (1907) 71 J.P. 383, because the manager is the brewer's servant and as such is the holder of the licence, whereas in *Dunning* v. *Owen* the licensee was not the servant of the owner of the liquor? ODRIFF.

Answer.

We cannot distinguish the facts outlined in the question which we answered on p. 495, *ante*, from the facts in *Dunning* v. *Owen*, *supra*, on the basis that in the reported case the licence holder was not the servant of the person who actually sold the intoxicating liquor. It was established in *Mellor* v. *Lydiate* (1914), *supra*, that the holder of a licence may sell intoxicating liquor which is the property of an unlicensed employer: but this is not to say that an unlicensed employer may sell intoxicating liquor in the name of an employed licence holder who seems, apparently, to do no more than lend his name to the enterprise.

The facts have points of similarity to the facts in *Peckover* v. *Defries and Newton* (1907) 71 J.P. 38, in which the headnote refers to selling under the cloak of a "dummy" licensee, a description modified by Phillimore, J. in *Dunning* v. *Owen*, *supra*, to "a tame licensed person."

That licensing law looks to the holder of an occasional license as the person who has control of the business conducted by virtue of the licence is illustrated by s. 148 (5) of the Licensing Act, 1953, and s. 1 of the Occasional Licences and Young Persons Act, 1956.

3.—Local Government—*Town clerkship vacant—Appointment of borough treasurer as acting town clerk.*

A town clerk is relinquishing his post, and a time lag of two months will elapse between the date of his departure and the arrival of his successor. There is no person designated as deputy town clerk, but consideration is being given to the designation in such terms of a post now held by a chief assistant. The council has appointed its treasurer as "acting town clerk" without extra remuneration to cover the two months period involved. When appointed the latter's post was designated "borough treasurer and chief rating and valuation officer."

Having regard to the provisions of s. 106 (5) of the Local Government Act, 1933, advice is sought on:—

(*a*) Whether the appointment, although for two months, contravenes the section mentioned;

(*b*) if the treasurer, as acting town clerk, signs legal notices and documents in the latter capacity, will such invalidate such notices and documents?;

(*c*) would the position be met if, instead of being designated "acting town clerk," the treasurer was designated "deputy town clerk" in accordance with the provisions of s. 116 of the Local Government Act, 1933?

(*d*) generally. CARAN.

Answer.

(*a*) The sections are not as clear as could be wished, but looking to their purpose we think s. 106 (5) prevails over the power in s. 116 (1) to appoint a person to "act temporarily in the office" of town clerk, and accordingly that the appointment is invalid;

(*b*) Yes, subject to the possibility that the council might be estopped from denying his power to bind them by such a document;

(*c*) In our opinion, no. Although the marginal note to s. 166 is "Appointment of temporary deputies," the word "deputy" does not occur in the section itself. The appointee is therefore not a "deputy" in the sense of s. 115. Further, we do not think s. 115 can be used for this purpose;

(*d*) The opening paragraph of the query does not show how long the office will be vacant, *i.e.*, whether the old town clerk though physically departed will still be in office during part of the two months, and whether the new town clerk will be in office (*i.e.*, a member of this council's staff) before the day of his arrival. These points may be important for purposes of the query as well as s. 106 (3) of the Act.

4.—Magistrates—*Jurisdiction and powers—Indictable offence committed in another jurisdiction—Defendant living within justices' jurisdiction—Issuing process and hearing case.*

Process is sought against a young person for alleged larceny by trick on board a pleasure steamer in the River Thames. It is not known where on the River the alleged offence took place. The vessel started from London Bridge and proceeded seawards. The aggrieved, a child, and the young person both reside in a petty sessional division in Essex which does not border the River Thames at any point. It is many miles away. Sections 1 (2) (*a*) and (*d*), 2 (4) and 3 (1) and (3) of the Magistrates' Courts Act, 1952 have been quoted.

Is there jurisdiction to hear the case in the division where the young person resides, please? J.Z.Y.X.

Answer.

This is an indictable offence. By s. 1 (2) (*c*) Magistrates' Courts Act, 1952, a justice may issue process "if the person charged resides or is . . . within the county or borough." Jurisdiction to try the case when process has been so issued is conferred by s. 2 (3) and (4).

5.—Public Health Act, 1936, s. 75 (3)—*Supply of dustbins by local authority—Replacement of stolen bins.*

The council has undertaken to provide and maintain dustbins for the purpose of s. 75 (3) of the Public Health Act, 1936. The maximum charge is made in respect of the dustbins provided. Reports are being received of dustbins stolen from houses for which they are provided, necessitating the provision of further dustbins. Is it considered that a separate charge is permissible for each dustbin provided at any given premises, so that a charge for the stolen bin may be continued in addition to a charge for the replacement, on the ground that each bin was "provided," or does that expression contemplate the continuous existence of the dustbin when once provided at any given premises, by reason of the obligation to maintain, so that if stolen (or for that matter ill used to the point of destruction), it must be replaced for the payment of only the one charge? Apart from the possibility of recovering the cost of each bin in this way, is it considered that there is any enforceable duty of care placed upon the person into whose charge the dustbin is placed for safe custody and/or reasonable treatment of the bin. CAINAN.

Answer.

When the bin has disappeared, the premises are without means of getting rid of house refuse, and sooner or later s. 92 of the Act might come into play. Section 75 (2) contemplates that a bin once provided

will remain in use until worn out, but if it has disappeared (or been prematurely rendered useless) s. 75 (1) seems to empower the local authority to start afresh, subject to an appeal thereunder.

The householder would no doubt say that it is impossible to ensure that bins, which usually stand in an outside passage or yard, will not be stolen, and that it would be unfair to make him pay for a new one, by the combined operation of subs (1) and (3). The magistrates might nevertheless decide that the householder was at any rate better able than the local authority to protect the bin, and that it would be unfair to throw the cost of replacement on the ratepayers at large. If they so held, a new series of instalments would be payable, running longer than those for the first bin, and thus there might be some encouragement to other householders, to do what they could to safeguard bins. We do not, however, think the householder can be required to go on paying instalments in respect of the stolen bin, as well as paying for the new one.

6.—Public Health Act, 1936, s. 94—*Nuisances—Amount of costs to be awarded—Recovery on change of ownership.*

After serving an abatement notice which was not complied with, my council applied to the magistrates' court for a nuisance order. The court deferred their decision, and it is understood that judgment will be delivered at a future court in about 10 days time. I have been informally notified that a nuisance order will be made but no order is being made as to costs.

1. The council were represented before the court by counsel and expert witnesses, and the total amount of costs and expenses involved is likely to be in the region of £150. I shall be glad to have your opinion as to whether the court must make an order under s. 94 (3) of the Public Health Act, 1936, for the defendant to pay the council's reasonable costs and expenses. As s. 94 (3) refers to " expenses " I am wondering whether this includes the costs of the actual court hearing including counsels' expenses. I also refer you to s. 55 of the Magistrates' Courts Act, 1952.

2. The defendant has also been notified informally of the court's decision, and it now appears that the property involved may be hurriedly sold by the defendant before the court delivers its judgment. If such sale takes place, the defendant will not in fact be the owner of the property when the court delivers judgment.

In such circumstances I shall be glad to have your valued opinion (*a*) as to whether a nuisance order could be made and if so upon whom, and (*b*) does the conduct of the defendant in hurriedly selling the property in the knowledge of what the court's judgment is going to be leave open any remedies to the council against him. CANBUR.

Answer.

In face of s. 94 (3) of the Public Health Act, 1936, we think the magistrates must make some order as to costs, and this obligation is not overridden by the discretion conferred in s. 55 of the Magistrates' Courts Act, 1952: *see* subs. (5) of the latter. But we do not think the magistrates are bound to award the whole of the expenses incurred. The subsection does not require them to determine what are reasonable costs, and then award the sum so determined. They are to award a " reasonable sum . . . in respect of the expenses incurred." This is no doubt left uncertain in order to give a discretion in the light of all the facts. The local authority may be obliged to incur the same costs against one defendant as against another, but what is a reasonable expense for them to incur may not be reasonable to make a particular defendant pay, and the magistrates must strike the balance as best they can. They can award the whole, including counsel's and witnesses' fees, if satisfied that this is reasonable as against the particular defendant.

Upon your second question, *see* ss. 95 (2) and 96 (1). The defendant (if he succeeds in selling before the nuisance order is made) is still the person on whom to make the nuisance order in terms of s. 94 (2); he can also be fined thereunder. As for enforcement, he will have an answer under s. 95 (1), but the local authority will execute the nuisance order in default, and recover their expenses as in s. 96 (1) (*a*).

7.—Rating and Valuation—*Void premises—Leasehold.*

A store is liable to rating and the occupier asked that the general rate be apportioned for the following reasons:—

" Our tenancy of the premises expires on September 30, 1956, and we actually vacated the premises on May 1, 1956. There are no goods or fittings in the store after that date, consequently we claim void relief from May 1 to September 30, 1956."

The general rate to September 30 has been demanded on the ground that the occupier is in beneficial occupation by reason of his paying rent to that date, although there are no goods or fittings in the store after May 1, 1956 Your opinion is desired as to whether the rating authority is in order in refusing relief for the period to September 30, 1956. PRANCA.

Answer.

There seems to be no reason why the relief should be refused. Leasehold premises may be vacant in the same way as a freehold, even though the tenant, like the landlord, can go into occupation again if he wishes.

8.—Road Traffic Acts—*Disqualification—Conviction and disqualification before November 1, 1956—Appeal—Disqualification suspended (pending appeal) after November 1—Appeal dismissed—Duration of disqualification.*

I am glad to have seen your article at 120 J.P.N. 674, regarding the new penalties in the Road Traffic Act, 1956. This has removed a doubt regarding what penalty should be imposed in cases which overlap the commencing date applying to the various sections. I should also welcome your opinion on a matter arising under the same principles. A person convicted of an offence under s. 11 of the Road Traffic Act, 1930, on October 25 last, has given notice of appeal to a court of quarter sessions which will be held at the end of November. There is no doubt that on appeal the penalty which may be imposed by the court must relate to the time of the conviction before the magistrates' court. The appellant, however, has applied for a suspension of the period of disqualification imposed by the magistrates' court upon conviction, and he did not make his application until the first week in November when the new provisions regarding disqualifications were in force.

The operation of the disqualification will be suspended for a period of four weeks, pending the appeal. Under the provisions of the Road Traffic Act, 1930, if the appeal were dismissed, the appellant would receive the benefit of these 28 days; under the new provisions of the Road Traffic Act, 1956, such a period of suspension is to be disregarded and an appellant in the circumstances of the present case would not benefit in any way by the suspension. I am doubtful as to which Act shall be applied to the disqualification, and I shall be glad of your opinion in that matter. MEXAR.

Answer.

When the date of the expiry of the period of disqualifaction has to be determined the section in force will be s. 27 (2) of the 1956 Act. We think, therefore, that regard must be had to that section, and that the defendant will not benefit by the period of suspension and will remain disqualified for the full period ordered.